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PATENT TRADEMARK OFFICE

Docket No.: 2309/0J434

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Kengo OCHI; Takeshi IKEGAMI

Serial No.: 09/875,369

Art Unit: 3644

Filed: June 5, 2001

Examiner: SMITH, Kimberly S.

For: ANIMAL EXCRETIONS-TREATING MATERIAL CAPABLE OF BEING DISPOSED OF IN FLUSH TOILETS

REQUEST FOR RECONSIDERATION

October 30, 2002

Box AF  
Assistant Commissioner of Patents  
Washington, DC 20231

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Sir:

Responsive to the Office Action dated August 28, 2002, the following amendments and remarks are respectfully submitted.

Claims 1-9 stand rejected under 35 U.S.C. 112, 1st ¶, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most clearly connected, to make and/or use the invention.

On page 2, paragraph 1 of the Office Action, the statement is set forth that:

*"While a number of patents do contain the terminology 'alpha-starch', this is not considered to be an enabling definition as to the invention of the applicant. The terminology 'alpha-starch' appears to be a known term as applied to the Japanese language as an overwhelming majority of the patents listed were either issued through the Japanese Patent Office or are continuations of Japanese issued documents. As the term 'alpha-starch' has not been listed within a chemical dictionary to which ones of ordinary skill in the art would have access to, the term 'alpha-starch' is considered to be non-enabling. It is unclear as to whether the 'alpha' is in reference to the position on the chemical chain or as to what starches the term is to encompass. It is suggested that the applicant clearly define what the term 'alpha-starch' is to encompass to obviate this rejection. As it is unclear as to the scope of which the term "alpha-starch" is to encompass, the starch as disclosed in the prior art references are considered to fall within the scope of an alpha starch until a clarification as for what the terminology encompasses has been provided. (Emphasis added).*

Responsive to the foregoing assertion, Applicants must respectfully posit that the Examiner has relied on an analysis that amounts to the conclusion that the wording in question, i.e., "alpha-starch", is only meaningful to the Japanese as applied to the Japanese language to thereby negate the effectiveness of the wording in question.

However, Applicants must respectfully maintain that this position simply cannot be correct. At first, over one hundred and seventy (170) U.S. Patents containing the wording "alpha-starch" have issued. This means that a corresponding number of U.S. Examiners arrived at a position contrary to the position reached by the Examiner responsible for the present application. It follows that if the Examiner's present argument is maintained, then the effect is that the Examiner is reversing the judgment made by a large number of Examiners.

Furthermore, Applicants wish to draw the Examiner's attention to U.S. Patent No. 4,948,580 (E.R. Squibb & Sons, Inc.), U.S. Patent No. 4,913,918 (International Flavors & Fragrances Inc.) and U.S. Patent No. 6,123,717 (The Proctor & Gamble Company), for example. These U.S. Patents were filed and are owned by U.S. enterprises. The term "alpha-starch" appears in these patents and thus, demonstrates that this term is understood by those skilled in the art even in the United States. In addition, Applicants wish to draw the Examiner's attention to the Internet website of the Centers for Disease Control (CDC) and Prevention of the U.S. Department of Health and Human Services. Set forth in the page of CAS 9005-25-8 "Starch" in NIOSH Pocket Guide to Chemical Hazards is the term "alpha-starch", for which a clear definition is provided (See **Attachment B**). It therefore follows that the wording in question has been officially recognized by the U.S. Government.

Since the Examiner's rejection on the merits is based on an erroneous interpretation of the term "alpha-starch" as set forth above, and none of the references applied teach or suggest the "alpha-starch" as claimed in the present invention, all of the pending claims are therefore patentable over the cited art. In view of the foregoing, reconsideration and withdrawal of the rejections are respectfully requested.

Claims 1, 5 and 7-9 stand rejected under 35 U.S.C. 102(b) as being anticipated by JP 11-032608 to *Sasahara*, while claims 2-4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the same reference. Claim 6 has been rejected under 35 U.S.C. §103(a) as being

Docket No. 2309/OJ434

unpatentable over *Sasahara* in view of U.S. Patent No. 5,209,185 to *Chikazawa*. These several rejections are respectfully traversed.

The present invention relates to a water-decomposable material for treating excretions from animals, such as cats, dogs, pigs, rats, and the like. The invention is characterized by the use of "fine  $\alpha$ -starch that readily dissolves in water and becomes sticky when brought into contact with water."

JP 11-032608 to *Sasahara* relates to a treating material that comprises a flat granular body have a two-layered structure which comprises a flat core material comprising hydro fillet organic fibers and a layer comprising water-absorbing polymer powder and organic fiber power covering the entire surface of the core material in an approximately constant thickness. According to this reference, a surfactant may be added to the flat core material that comprises the hydro fillet organic fibers (see *Abs.*) However, this reference fails to disclose the  $\alpha$ -starches as set forth in independent claim 1.

U.S. Patent No. 5,209,185 to *Chikazawa* relates to an artificial litter material that absorbs water and offensive odors that are commensurate with the urine and feces left by pets. According to this reference, the litter material also dissolves immediately and is carried away with ease if disposed of directly into a flush toilet or a waste water system (see col. 1, lines 59-56). This reference, however, fails to cure the deficiency of the *Sasahara* reference. Specifically, *Chikazawa* fails to disclose the use of  $\alpha$ -starch particles, as set forth and claimed in the present invention.

In the present invention, in place of the water-absorbent polymer powder disclosed in *Sasahara*, and the zeolite as an inorganic substance as disclosed in *Chikazawa*, the  $\alpha$ -starch as set forth in claim 1 is used as a biodegradable natural substance for eliminating the drawbacks associated with the *Sasahara* and *Chikazara* references. In particular, the  $\alpha$ -starch increases the ease with which the animal excretions-treating material are disposed of in flush toilets.

In addition, the present invention mixes fibers and  $\alpha$ -starches to thereby form a skin layer. As a result, the fibers that constitute the skin layer rapidly absorb excretions to prevent them from spreading over a wide range of such an excretion-treated material (see page 8, line 23 to page 9, line 2 of the specification).

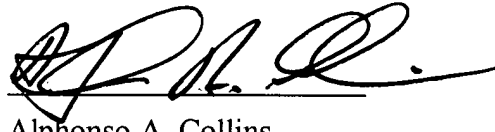
Further, the tapioca-corn pill as disclosed in *Chikazara* are different from the tapioca  $\alpha$ -starch particles of the present invention in that the shape and the production method thereof are different. Also, the animal excretion-treated material disclosed in *Sasahara* has a two-layer structure, while the litter material for pet animals disclosed in *Chikazara* has a one-layer structure that is formed by coating zeolite onto tapioca-corn pellets. For the foregoing reasons, Applicants respectfully assert that independent claim 1 is patentable other the cited references whether considered individually or in combination. Accordingly, reconsideration of the rejections are respectfully requested.

In view of the patentability of independent claim 1, for the reasons above, dependent claims 2-9 are patentable over the prior art.

In view of the foregoing remarks, the application is respectfully submitted to be in condition for allowance and prompt, favorable action thereon is earnestly solicited. However, should the Examiner believe that direct contact with Applicant's attorney would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,

Dated: November 1, 2002

A handwritten signature in black ink, appearing to read 'A. A. Collins', written over a horizontal line.

Alphonso A. Collins  
Reg. No. 43,559  
Attorney for Applicant(s)

DARBY & DARBY P.C.  
805 Third Avenue  
New York, New York 10022  
212-527-7700

Docket No. 2309/OJ434